

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

**ORDER DENYING AS MOOT MOTION TO EXCLUDE OPINION TESTIMONY ON  
“USE OF FORCE” AND REQUEST FOR AN EVIDENTIARY HEARING**

Before the Court is Defendant Martin’s (“Defendant”) Motion to Exclude Opinion Testimony on “Use of Force” and Request for an Evidentiary Hearing,” (“Motion,” ECF No. 393), with which he filed a Memorandum in Support, (ECF No. 394). Defendant Justin Smith filed a Notice of Joinder to the Motion and Memorandum in Support on July 23, 2024. (ECF No. 405.)<sup>1</sup> The Government responded in opposition to the Motion on August 1, 2024. (ECF No. 439.)

Defendant argues that the Government's use of force experts:

should be excluded from trial because the government's disclosures do not comply with Rule 16 or, at a minimum, their testimony should be limited to preclude all of the government's noticed witnesses from offering an opinion on whether the officers' failure to adhere to internal policies and procedures shows that the defendants willfully used unreasonable force.

<sup>1</sup> The Court considers Defendant Martin's Motion despite his change of plea because of Defendant Smith's joinder.

(ECF No. 393 at PageID 5373.) On August 28, 2024, the Court entered an Order addressing Defendant's arguments within the context of a Motion and Appeal filed by Defendant Haley about the admissibility of expert and lay testimony about use of force. (*See* ECF No. 516 (sealed).) Accordingly, Defendant's Motion is now moot.

**CONCLUSION**

For these reasons, the Motion to Exclude Opinion Testimony on "Use of Force" and Request for an Evidentiary Hearing," (ECF No. 393), is **DENIED AS MOOT**.

**IT IS SO ORDERED**, this 29th day of August, 2024.

*s/ Mark S. Norris*

---

MARK S. NORRIS

UNITED STATES DISTRICT JUDGE